

**Federal Defenders
OF NEW YORK, INC.**

Southern District
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*David E. Patton
Executive Director
and Attorney-in-Chief*

*Southern District of New York
Jennifer L. Brown
Attorney-in-Charge*

March 15, 2022

REQUEST GRANTED.

BY ECF

Honorable Lewis J. Liman
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

The Probation Department is directed to finalize its presentence report as soon as possible. The Sentencing hearing previously set for March 29, 2022 is rescheduled to April 25, 2022 at 2:00PM in Courtroom 15C at the 500 Pearl Street Courthouse. Parties are to file their sentencing submissions in accordance with the Court's individual practices.

**Re: United States v. Wesley Mackow,
20 Cr. 114 (LJL)**

3/28/2022

SO ORDERED.



LEWIS J. LIMAN
United States District Judge

Dear Judge Liman:

I write to request that the Court direct the Probation Department to finalize its presentence investigation report (“PSR”) without further delay.

Mr. Mackow pled guilty on September 9, 2021. He was subsequently remanded into custody pursuant to 18 U.S.C. § 3143(a)(2) and held at MDC Brooklyn. Sentencing was set for December 20, 2021.

Sentencing has been delayed several times because the PSR has not been finalized. The draft PSR was timely disclosed on November 3, 2021. It has not been finalized because Probation requested an independent psychosexual evaluation, which has not been completed (or indeed begun). The defense consented to this evaluation (though we were under no obligation to do so) to cooperate with Probation and on the understanding that it would not unduly delay sentencing. But we never believed it was necessary: There is already a detailed psychosexual evaluation of Mr. Mackow prepared by Dr. Eric J. Lane, Psy. D., which was disclosed to the government during plea negotiations and to the Court during the post-plea bail hearing. The government raised no concerns about the report’s integrity, candor, or thoroughness.

For several reasons, including an extended institutional lockdown at MDC, Probation’s contracted psychologist has not even been to see Mr. Mackow yet—six months after Mr. Mackow’s guilty plea and four months since the first disclosure of the PSR. This delay prejudices Mr. Mackow because he may be sentenced to time served and, at a minimum, after sentencing he can be designated to a BOP facility closer to his family in Maryland.

Honorable Lewis J. Liman
United States District Judge

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Accordingly, we request that the Court direct the Probation Department to finalize then PSR and to set a new date for sentencing approximately three to four weeks after the final PSR is available.

Sincerely,

/s/
Clay H. Kaminsky
Assistant Federal Defender
Federal Defenders of New York
(212) 417-8749

CC: AUSA Mitzi Steiner